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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 2001-3-25

125019

Action on IATA Agreement
Issued by the Department of Transportation
on the 26 Day of March, 2001

Served: March 29, 2001

Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-2000-8065-2
International Air Transport Association : R-1 through R-4
relating to composite cargo resolutions :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreement was adopted at the Cargo Tariff Coordinating Conference held in Geneva, Switzerland, May 15-17, 2000 1/

The agreement consists of composite cargo resolutions that generally apply on a worldwide basis. United States add-on amounts in Resolution 015aa are introduced for construction with general commodity rates to/from TC3 except South West Pacific. Under resolutions 501, 550 and 590, minimum charges, general and specific commodity rates from Libya to the United States would be increased and expiry dates deleted. A separate amendment to Resolution 590 would re-number some specific commodity rates from Bangkok.

We will approve most portions of the agreement, which raise no controversial issues, subject to our usual conditions that all agreed rates and charges represent maximums, with carriers free to implement rates and charges below them.

We will disapprove resolutions 501, 550 and the portion of 590 involving rates between the United States and Libya. Adoption of such rates is contrary to the restrictions set forth in Order 86-2-23 (January 30, 1986) regarding transportation between the United States and Libya.

We conclude that the resolutions we are approving should be granted immunity from the operation of the antitrust laws to the

1/IATA memorandum CTC COM 0285 filed with the Department on October 4, 2000 and technical correction CTC COM 0305 filed September 1, 2000.

extent necessary to permit their implementation. In general, they amend existing rates already approved and immunized by the Department. As a result, the agreement does not raise immunity issues not previously considered, and the conferral of immunity upon them is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreements.

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41300, and 41309:

1. We do not find that the resolutions set forth below, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, or likely to lessen competition substantially; provided that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to or from U.S. points established pursuant to these resolutions shall be maximums, (b) each and every carrier operating pursuant to such resolutions may implement rates and charges below those established by these resolutions and (c) approval is subject, where applicable, to conditions previously imposed;

Docket OST-00-8065

<u>Resolution</u>	<u>Description</u>
R-3; 590 002nn	Special Amending Resolution USA/US Territories Specific Commodity Rates To the extent it does not involve rates to/from Libya.
R-4; 015aa	Add-on Amounts USA/US Territories

2. We find that the following resolutions incorporated in Docket OST-2000-8065 as indicated, are adverse to the public interest and in violation of the Code:

Docket OST-00-8065

<u>Resolution</u>	<u>Description</u>
R-1; 501 002nn	Special Amending Resolution USA/US Territories Minimum Charges for Cargo (New)

Docket OST-00-8065

<u>Resolution</u>	<u>Description</u>
R-2; 550 002nn	Special Amending Resolution USA/US Territories General Cargo Rates (New)
R-3; 590 002nn	Special Amending Resolution USA/US Territories Specific Commodity Rates To the extent it involves rates to/from Libya.

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to that portion of the agreement in Docket OST-00-8065, set forth in finding paragraph 1 above, subject to conditions imposed.

ACCORDINGLY,

1. We approve and grant antitrust immunity to those portions of the agreement contained in Docket OST-00-8065, set forth in finding paragraph 1 above, subject to conditions imposed; and

2. We disapprove those portions of the agreement contained in Docket OST-00-8065 set forth in finding paragraph 2 above.

By:

Susan McDermott
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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